IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 2047 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

ASSISTANT COLLECTOR OF CUSTOMS

Versus

RAMBHAI NATHABHAI GADHVI

Appearance:

MR M.R.Shah for Petitioner

MR SH SANJANWALA for Respondent Nos. 1 to 3

Mr.K.P.Raval, learned A.P.P. for Respondent No. 4

CORAM : MR.JUSTICE M.C.PATEL

Date of decision: 28/07/2000

ORAL JUDGEMENT

This petition filed by the Assistant Collector of Customs, Jamnagar Division, Jamnagar, under Article 227

of the Constitution and Section 482 of the Code of Criminal Procedure, 1973 is directed against the order dated 2-12-1993 passed by the Learned Chief Judicial Magistrate, Jamnagar in Criminal Misc. Application No.2213 of 1993, directing Respondents Nos.1 to 3, who were accused of the offence punishable under Section 135 of the Customs Act, to be released on bail on the conditions stated in the order. The main contention on behalf of the petitioner is that at the relevant time the accused were not in judicial custody and hence Learned Magistrate could not have passed the order releasing them on bail. However, almost more than six years have passed since the accused were ordered to be released on bail. In the circumstances, in my opinion, it is not necessary to interfere with the impugned order at this stage. The petition is, therefore, disposed of without expressing any view on the merits of the contention raised on behalf of the petitioner. It goes without saying that the petitioner can approach the Competent Court for cancellation of the bail, if the accused have committed breach of any conditions of the bail.

Rule discharged.

28-7-2000 (M. C. Patel, J.)

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